CUSC Presentation Regarding Issues
Before the Universal Service Joint Board

Introduction

- CUSC consists of wireless and wireline companies that provide, or seek to provide, basic universal service in competition with ILECs. Members include Dobson, U.S. Cellular, VoiceStream, Western Wireless, ALTS, CompTel, and others.

- Local competition is just beginning to get off the ground in rural areas. This progress has been slow and difficult, in part due to sustained regulatory opposition from rural ILECs. For example, in many states it has been very difficult to obtain designation as an ETC.

- To enable competition to develop as contemplated by the Telecom Act of 1996, regulators must eliminate artificial regulatory barriers to entry, such as past universal service policies that provided support exclusively to ILECs.

  – To eliminate this barrier to entry, all support must be explicit, competitively neutral, and fully portable (*i.e.*, competitive entrants and ILECs get the same amount per line served).

Definition of Universal Service Proceeding

- Adding more services or functionalities to the definition would exclude carriers that cannot provide those services of functionalities from qualifying as ETCs. This could deprive consumers of the opportunity to purchase basic local services from additional carriers.

  – Broadband and high-speed Internet connectivity, while worthy policy goals, should not be added to the definition of universal service. Wireless carriers will be able to provide such services in the near future, but may not be able to do so now.

- The definition of universal service should avoid locking in existing technologies or rate structures favored by ILECs.

  – For example, requiring ETCs to include a minimum number of "local" minutes in rate plans would require regulators to lock in existing definitions of which services are "local" and which are "long distance." This would unnecessarily inhibit creativity in responding to consumer demands with new types of combined local/long distance offerings.

- "Equal access" should not be added to the definition.

  – Equal access does not meet the requirements of Section 254(c)(1), because it is not a "service" that consumers have "opted" to purchase through "free market" decisions. Rather, equal access is a legal mandate that courts and regulators imposed on ILECs to prevent them from leveraging their local monopoly power into the long distance market.

  – Adding equal access to the definition would effectively exclude cellular and PCS carriers from qualifying as ETCs, and would be profoundly anti-competitive. That's why the Joint Board and the FCC rejected this idea in 1996-'97.

- Consumers should have the right to decide whether they want to buy local service from an ILEC (including benefits such as equal access, etc.) or from an alternative carrier that may offer a different set of benefits (*i.e.*, mobility, calling plans with large "local" calling areas or combinations of local and long distance minutes, etc.).

- It is immaterial that competitive ETCs in rural ILEC areas receive portable support based on ILECs' embedded costs, including the cost of equal access.

  » This argument really doesn't relate to the definition of universal service; it's an assault on the fundamental principle of portability, which as noted above is critical to eliminate barriers to entry.

  » If competitive ETCs received funding based on their own embedded costs, they would need to submit cost studies, which would be unprecedented and so intrusive and burdensome for competitive carriers that they would probably abandon the effort to compete in providing basic universal service.

  » Competitive ETCs, new entrants with relatively few customers, undoubtedly have significantly higher embedded costs *per-line* than most ILECs.

10th Circuit Remand Proceeding

- The Tenth Circuit remand order requires the FCC to consider "inducements" to states to promote development of state universal service programs that complement the FCC's policies.

  - States should be encouraged or "induced" to designate competitive entrants as ETCs in a competitively and technologically neutral manner, using streamlined procedures comparable to those that were used for designating ILECs.

  - States that want to participate in the federal universal service program should not be allowed to use the ETC designation process to impose non-competitively neutral requirements on wireless or wireline entrants.

  - States should be encouraged to ensure that any and all intrastate support mechanisms are competitively neutral – *i.e.*, ILECs should not receive explicit or implicit support that is unavailable to competitive entrants.

    » For example, states that decide to provide support for only a single line per customer, should ensure that such support is shared equally among all the ETCs that provide service to a customer, rather than adopting an anti-competitive assumption that the ILEC line is the "primary" line.

- The definitions of the statutory terms "sufficient" and "affordable" should in a manner that protects against excessive growth of the overall fund.

  - In this context, regulators should also keep in mind that competition, not regulatory requirements, will govern the rates paid by competitive ETCs' customers.